

Pro Se 2 (Rev. 12/16) Complaint and Request for Injunction

UNITED STATES DISTRICT COURT

for the

____ Western _____ District of ____Texa

____ Del Rio _____ Division

FILED

MAR 16 2018

CLERK, U.S. DISTRICT CLERK
WESTERN DISTRICT OF TEXAS
BY DAJ DEPUTYMichael L. Martin
1801 Garnerfield Rd.
Uvalde, Tx. 78801-6209

Case No. _____

(to be filled in by the Clerk's Office)

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

Uvalde City Police Department
964 W. Main St.
Uvalde, Tx. 78801

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

DR 18CV0015

COMPLAINT AND REQUEST FOR INJUNCTION

I. The Parties to This Complaint

A. The Plaintiff(s)

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name	Michael L. Martin
Street Address	1801 Garnerfield Rd.
City and County	Uvalde, Uvalde
State and Zip Code	Texas, 78801
Telephone Number	830-278-3265
E-mail Address	mmartin002@stx.rr.com

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title (if known). Attach additional pages if needed.

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Defendant No. 1

Name	Uvalde City/Township Police Department
Job or Title <i>(if known)</i>	Chief Of Uvalde City/Township Police
Street Address	964 W. Main St
City and County	Uvalde, Uvalde
State and Zip Code	Texas, 78801
Telephone Number	830-278-9147
E-mail Address <i>(if known)</i>	eherrera@uvaldetx.com

Defendant No. 2

Name	
Job or Title <i>(if known)</i>	
Street Address	
City and County	
State and Zip Code	
Telephone Number	
E-mail Address <i>(if known)</i>	

Defendant No. 3

Name	
Job or Title <i>(if known)</i>	
Street Address	
City and County	
State and Zip Code	
Telephone Number	
E-mail Address <i>(if known)</i>	

Defendant No. 4

Name	
Job or Title <i>(if known)</i>	
Street Address	
City and County	
State and Zip Code	
Telephone Number	
E-mail Address <i>(if known)</i>	

II. Basis for Jurisdiction

Federal courts are courts of limited jurisdiction (limited power). Generally, only two types of cases can be heard in federal court: cases involving a federal question and cases involving diversity of citizenship of the parties. Under 28 U.S.C. § 1331, a case arising under the United States Constitution or federal laws or treaties is a federal question case. Under 28 U.S.C. § 1332, a case in which a citizen of one State sues a citizen of another State or nation and the amount at stake is more than \$75,000 is a diversity of citizenship case. In a diversity of citizenship case, no defendant may be a citizen of the same State as any plaintiff.

What is the basis for federal court jurisdiction? *(check all that apply)*



Federal question



Diversity of citizenship

Fill out the paragraphs in this section that apply to this case.

A. If the Basis for Jurisdiction Is a Federal Question

List the specific federal statutes, federal treaties, and/or provisions of the United States Constitution that are at issue in this case.

Amendment IV, XIV Of the Constitution Of the United States. Issue 1. search without a warrant, issue 2. A policeman drew his weapon on me constituting unequal protection of the Law in that Police are rarely prosecuted for killing armed civilians (weapon in hand), but civilians are almost always charged for killing armed policemen (weapon in hand).

B. If the Basis for Jurisdiction Is Diversity of Citizenship**1. The Plaintiff(s)****a. If the plaintiff is an individual**

The plaintiff, *(name)* _____, is a citizen of the
State of *(name)* _____.

b. If the plaintiff is a corporation

The plaintiff, *(name)* _____, is incorporated
under the laws of the State of *(name)* _____,
and has its principal place of business in the State of *(name)* _____.

(If more than one plaintiff is named in the complaint, attach an additional page providing the same information for each additional plaintiff.)

2. The Defendant(s)**a. If the defendant is an individual**

The defendant, *(name)* _____, is a citizen of
the State of *(name)* _____. Or is a citizen of
(foreign nation) _____.

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b. If the defendant is a corporation

The defendant, (name) _____, is incorporated under
the laws of the State of (name) _____, and has its
principal place of business in the State of (name) _____.
Or is incorporated under the laws of (foreign nation) _____,
and has its principal place of business in (name) _____.

(If more than one defendant is named in the complaint, attach an additional page providing the same information for each additional defendant.)

3. The Amount in Controversy

The amount in controversy—the amount the plaintiff claims the defendant owes or the amount at stake—is more than \$75,000, not counting interest and costs of court, because *(explain)*:

III. Statement of Claim

Write a short and plain statement of the claim. Do not make legal arguments. State as briefly as possible the facts showing that each plaintiff is entitled to the injunction or other relief sought. State how each defendant was involved and what each defendant did that caused the plaintiff harm or violated the plaintiff's rights, including the dates and places of that involvement or conduct. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

A. Where did the events giving rise to your claim(s) occur?

On or about the Monday after Thanksgiving the Uvalde City Police searched my property without a warrant or my consent. Property is enclosed by a fence and backyard hidden from view by shrubs where police chose to enter. After the search the police came to my door at my request to explain what they were doing, and one of them had his weapon drawn.

B. What date and approximate time did the events giving rise to your claim(s) occur?

On or about 2:20 A.M

- C. What are the facts underlying your claim(s)? *(For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?)*

The police entered my backyard, made noise. I checked out noise with a handgun in my hand that I made sure they saw. On pointed to his badge, mouthed police and I told them to come to the front of the house to talk to me. They requested that I put down my gun, which I did before answering knock on my door. I stated that they needed a warrant to search my property, they responded they didn't. One of the policemen concealed from initial view had his weapon drawn.

IV. Irreparable Injury

Explain why monetary damages at a later time would not adequately compensate you for the injuries you sustained, are sustaining, or will sustain as a result of the events described above, or why such compensation could not be measured.

Had I not laid my weapon aside, Being afraid for my life from the drawn gun, I would have attempted to eliminate the threat. Having had a weapon drawn on me, in the middle of the night, while I was in my own home without provocation has negated my confidence in the police. As such, being afraid for my life if a policeman draws his weapon on me, in or on my property I would feel compelled to eliminate the threat.

If I were to eliminate the "threat" I and they might not survive the aftermath.

I seek an injunction forbidding their intrusion on my property without either an invitation or a warrant. I have no desire to become involved in another "discussion" where police might feel free to draw their arms on my property. I seek the injunction to potentially save lives, mine and theirs.

I also want a judicial record to show that I have tried to minimize contact/damages from police interactions on my property.

V. Relief

State briefly and precisely what damages or other relief the plaintiff asks the court to order. Do not make legal arguments. Include any basis for claiming that the wrongs alleged are continuing at the present time. Include the amounts of any actual damages claimed for the acts alleged and the basis for these amounts. Include any punitive or exemplary damages claimed, the amounts, and the reasons you claim you are entitled to actual or punitive money damages.

I have suffered no monetary damages, other than the cost if any of this filing. I have suffered from the stress of having a weapon pulled on me, the stress of a police invasion of my property and the anguish of having my Constitutional rights ignored, without even an apology from the police for violating them.

I would rest easier if they were denied access to my property without an invitation or a warrant and it would give me further legal redress.

VI. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: 3/16/18

Signature of Plaintiff

Printed Name of Plaintiff

Michael L. Martin, pro se

B. For Attorneys

Date of signing: _____

Signature of Attorney

Printed Name of Attorney

Bar Number

Name of Law Firm

Street Address

State and Zip Code

Telephone Number

E-mail Address